

AMENDED IN SENATE AUGUST 27, 2008

AMENDED IN SENATE AUGUST 21, 2008

AMENDED IN SENATE AUGUST 4, 2008

AMENDED IN SENATE JULY 2, 2008

AMENDED IN SENATE JUNE 23, 2008

AMENDED IN SENATE JUNE 12, 2008

AMENDED IN ASSEMBLY APRIL 23, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2921

Introduced by Assembly Member Laird

February 22, 2008

An act to amend Sections 51201, 51250, 51256, 51257, 51282, 51283, and 51297 of, and to add Section 51223 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2921, as amended, Laird. Local government: agricultural land.

(1) Existing law, the Williamson Act, authorizes a city or county to contract with a landowner to limit the use of agricultural land located in an agricultural preserve designated by the city or county. Under this act, the Department of Conservation is required to notify the city or county if it discovers a possible material breach, as defined, of the contract, and the city or county is required to take certain actions to resolve the breach within designated timeframes. The act provides for reimbursement, as specified, for the costs incurred by the city or county

in taking those actions and authorizes the department to discharge the responsibilities of a city or county that fails to take specified actions to resolve the breach. The act exempts, subject to certain exceptions, a contract that has been terminated or canceled from a material breach proceeding under these provisions.

This bill would additionally authorize the Department of Conservation to discharge certain actions if the finding of no material breach by a city or county was not supported by the evidence, as specified, or was not made on the record at a public hearing. The bill would authorize the department and the city or county to agree to extend any deadline within these provisions, and would provide a process by which a landowner may request a meeting between the landowner, the department, and the city or county. The bill would also delete the exemption provided for a canceled contract. The bill would also define *“development”* and *revise the definition of “agricultural use,” “development,” and “open-space use” for specified purposes of the act.*

(2) The Williamson Act authorizes a landowner to rescind a contract made under its provisions to simultaneously place other land under an agricultural conservation easement, subject to specified conditions.

This bill would revise the conditions under which a landowner may cancel a Williamson Act contract to place other land under an agricultural conservation preserve. The bill would authorize the rescission of a contract for the purpose of restricting the same land by an open-space contract or an open-space easement agreement under specified circumstances.

(3) Existing law authorizes the board or council to grant tentative approval for a cancellation by petition of a landowner as to all or any part of land subject to a contract, if the board or council makes specified findings.

This bill would prohibit a board or council from accepting or approving a petition for cancellation if the board or council discovers or is notified of a likely material breach on the land, except as specified.

(4) The Williamson Act authorizes a landowner to enter into a farmland security zone contract and also to petition the city or county where the land subject to the contract is located for cancellation of the contract. Under the act, the city or county is required to take certain actions in determining whether to approve the petition.

This bill would additionally require the city or county to determine the amount of the cancellation fee required of the landowner and to

report that amount to the county auditor before tentatively approving the cancellation petition.

(5) The Williamson Act, until January 1, 2009, authorizes parties to a contract subject to the act's provisions to rescind the contract and simultaneously enter into a new contract in order to facilitate a lot line adjustment, if certain findings are made by the governing body of the city or county where the land is located.

This bill would extend the above authorization until January 1, 2010.

(6) Existing law establishes the Soil Conservation Fund to support, among other things, the cost of the farmlands mapping and monitoring program of the Department of Conservation, and program support costs incurred by the Department of Conservation in administering the open-space subvention program.

This bill would also authorize the use of funds in the Soil Conservation Fund to cover the costs to the department in administering the provisions of the Williamson Act regarding discovering material breaches of a Williamson Act contract.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 51201 of the Government Code is
2 amended to read:
3 51201. As used in this chapter, unless otherwise apparent from
4 the context, the following terms have the following meanings:
5 (a) "Agricultural commodity" means any and all plant and
6 animal products produced in this state for commercial purposes,
7 *including, but not limited to, plant products used for producing*
8 *biofuels.*
9 (b) "Agricultural use" means use of land, including but not
10 limited to greenhouses, for the purpose of producing an agricultural
11 commodity for commercial purposes.
12 (c) "Prime agricultural land" means any of the following:
13 (1) All land that qualifies for rating as class I or class II in the
14 Natural Resource Conservation Service land use capability
15 classifications.
16 (2) Land which qualifies for rating 80 through 100 in the Storie
17 Index Rating.

1 (3) Land which supports livestock used for the production of
2 food and fiber and which has an annual carrying capacity
3 equivalent to at least one animal unit per acre as defined by the
4 United States Department of Agriculture.

5 (4) Land planted with fruit- or nut-bearing trees, vines, bushes,
6 or crops which have a nonbearing period of less than five years
7 and which will normally return during the commercial bearing
8 period on an annual basis from the production of unprocessed
9 agricultural plant production not less than two hundred dollars
10 (\$200) per acre.

11 (5) Land which has returned from the production of unprocessed
12 agricultural plant products an annual gross value of not less than
13 two hundred dollars (\$200) per acre for three of the previous five
14 years.

15 (d) “Agricultural preserve” means an area devoted to either
16 agricultural use, as defined in subdivision (b), recreational use as
17 defined in subdivision (n), or open-space use as defined in
18 subdivision (o), or any combination of those uses and which is
19 established in accordance with the provisions of this chapter.

20 (e) “Compatible use” is any use determined by the county or
21 city administering the preserve pursuant to Section 51231, 51238,
22 or 51238.1 or by this act to be compatible with the agricultural,
23 recreational, or open-space use of land within the preserve and
24 subject to contract. “Compatible use” includes agricultural use,
25 recreational use or open-space use unless the board or council finds
26 after notice and hearing that the use is not compatible with the
27 agricultural, recreational or open-space use to which the land is
28 restricted by contract pursuant to this chapter.

29 (f) “Board” means the board of supervisors of a county which
30 establishes or proposes to establish an agricultural preserve or
31 which enters or proposes to enter into a contract on land within an
32 agricultural preserve pursuant to this chapter.

33 (g) “Council” means the city council of a city which establishes
34 or proposes to establish an agricultural preserve or which enters
35 or proposes to enter into a contract on land within an agricultural
36 preserve pursuant to this chapter.

37 (h) Except where it is otherwise apparent from the context,
38 “county” or “city” means the county or city having jurisdiction
39 over the land.

1 (i) A “scenic highway corridor” is an area adjacent to, and within
2 view of, the right-of-way of:

3 (1) An existing or proposed state scenic highway in the state
4 scenic highway system established by the Legislature pursuant to
5 Article 2.5 (commencing with Section 260) of Chapter 2 of
6 Division 1 of the Streets and Highways Code and which has been
7 officially designated by the Department of Transportation as an
8 official state scenic highway; or

9 (2) A county scenic highway established pursuant to Article 2.5
10 (commencing with Section 260) of Chapter 2 of Division 1 of the
11 Streets and Highways Code, if each of the following conditions
12 have been met:

13 (A) The scenic highway is included in an adopted general plan
14 of the county or city; and

15 (B) The scenic highway corridor is included in an adopted
16 specific plan of the county or city; and

17 (C) Specific proposals for implementing the plan, including
18 regulation of land use, have been approved by the Advisory
19 Committee on a Master Plan for Scenic Highways, and the county
20 or city highway has been officially designated by the Department
21 of Transportation as an official county scenic highway.

22 (j) A “wildlife habitat area” is a land or water area designated
23 by a board or council, after consulting with and considering the
24 recommendation of the Department of Fish and Game, as an area
25 of importance for the protection or enhancement of the wildlife
26 resources of the state.

27 (k) A “saltpond” is an area which, for at least three consecutive
28 years immediately prior to being placed within an agricultural
29 preserve pursuant to this chapter, has been used for the solar
30 evaporation of seawater in the course of salt production for
31 commercial purposes.

32 (l) A “managed wetland area” is an area, which may be an area
33 diked off from the ocean or any bay, river or stream to which water
34 is occasionally admitted, and which, for at least three consecutive
35 years immediately prior to being placed within an agricultural
36 preserve pursuant to this chapter, was used and maintained as a
37 waterfowl hunting preserve or game refuge or for agricultural
38 purposes.

(m) A “submerged area” is any land determined by the board or council to be submerged or subject to tidal action and found by the board or council to be of great value to the state as open space.

(n) “Recreational use” is the use of land in its agricultural or natural state by the public, with or without charge, for any of the following: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation. Any fee charged for the recreational use of land as defined in this subdivision shall be in a reasonable amount and shall not have the effect of unduly limiting its use by the public. Any ancillary structures necessary for a recreational use shall comply with the provisions of Section 51238.1.

(o) “Open-space use” is the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide habitat for wildlife, or for the solar evaporation of seawater in the course of salt production for commercial purposes, if the land is within:

- (1) A scenic highway corridor, as defined in subdivision (i).
- (2) A wildlife habitat area, as defined in subdivision (j).
- (3) A saltpond, as defined in subdivision (k).
- (4) A managed wetland area, as defined in subdivision (l).
- (5) A submerged area, as defined in subdivision (m).
- (6) *An area enrolled in the United States Department of Agriculture Conservation Reserve Program or Conservation Reserve Enhancement Program.*

(p) “Development” means, as used in Section 51223, the construction of buildings or the use of the restricted property if the buildings or use are unrelated to the agricultural use, the open-space use, or uses compatible with either agricultural or open-space uses of the property, or substantially impair the agricultural, open-space, or a combination of the agricultural and open-space uses of the property. Agricultural use, open-space use, uses compatible with either agricultural or open-space uses, or the acquisition of land or an interest in land are not development.

SEC. 2. Section 51223 is added to the Government Code, to read:

51223. (a) A city council or board of supervisors, as the case may be, shall, prior to rescinding a contract for the purpose of

1 restricting the same land by an open-space contract pursuant to
2 Section 51254 or by entering to an open-space agreement pursuant
3 to Section 51255, determine that the parcel or parcels are large
4 enough to provide open-space benefits, by providing habitat for
5 wildlife, or preserving its natural characteristics, beauty, or
6 openness for the benefit and enjoyment of the public.

7 (b) Uses or development permitted on land subject to an
8 open-space contract, or subject to an open-space easement
9 agreement pursuant to Section 51255, shall satisfy one or both of
10 the following:

11 (1) Comply with the provisions of Section 51238.1 or 51238.2.

12 (2) Consist of, cause, facilitate, or benefit one or more
13 open-space uses on the land.

14 (c) If an open-space contract is executed pursuant to Section
15 51205, or if a contract is rescinded for the purpose of restricting
16 the same land by an open-space contract pursuant to Section 51254,
17 or an open-space easement agreement pursuant to Section 51255,
18 either of the following shall apply:

19 (1) The resulting open-space contract shall not permit new
20 development during the period the contract is in effect, except that
21 uses compatible with or related to the open-space uses would be
22 permitted.

23 (2) The resulting open-space easement agreement shall not
24 permit new development during the time equal to the time
25 remaining on the contract at the time of its rescission, except that
26 uses compatible with, or related to, the open-space uses would be
27 permitted.

28 (d) For the purposes of this section, agriculture and uses
29 compatible with agriculture are compatible with open-space uses,
30 unless otherwise provided by local rules or ordinances.

31 (e) A board or council shall not accept or approve a petition for
32 rescission pursuant to Sections 51254 or 51255 if the city or county,
33 within which the land for which the rescission is sought is located,
34 has discovered or received notice of a likely material breach on
35 the land pursuant to the process specified in Section 51250, unless
36 the rescission is a part of the process specified in Section 51250.

37 SEC. 3. Section 51250 of the Government Code is amended
38 to read:

39 51250. (a) The purpose of this section is to identify certain
40 structures that constitute material breaches of contract under this

chapter and to provide an alternate remedy to a contract cancellation petition by the landowner. Accordingly, this remedy is in addition to any other available remedies for breach of contract. Except as expressly provided in this section, this section is not intended to change the existing land use decisionmaking and enforcement authority of cities and counties including the authority conferred upon them by this chapter to administer agricultural preserves and contracts.

(b) For purposes of this section, a breach is material if, on a parcel under contract, both of the following conditions are met:

(1) A commercial, industrial, or residential building is constructed that is not allowed by this chapter or the contract, local uniform rules or ordinances consistent with the provisions of this chapter, and that is not related to an agricultural use or compatible use.

(2) The total area of all of the building or buildings likely causing the breach exceeds 2,500 square feet for either of the following:

(A) All property subject to any contract or all contiguous property subject to a contract or contracts owned by the same landowner or landowners on January 1, 2004.

(B) All property subject to a contract entered into after January 1, 2004, covering property not subject to a contract on January 1, 2004.

For purposes of this subdivision any additional parcels not specified in the legal description that accompanied the contract, as it existed prior to January 1, 2003, including any parcel created or recognized within an existing contract by subdivision, deed, partition, or, pursuant to Section 66499.35, by certificate of compliance, shall not increase the limitation of this subdivision.

(c) The department shall notify the city or county if the department discovers a possible breach.

(d) The city or county shall, upon notification by the department or upon discovery by the city or county of a possible material breach, determine if there is a valid contract and if it is likely that the breach is material. In its investigation, the city or county shall endeavor to contact the landowner or his or her representative to learn the landowner's explanation of the facts and circumstances related to the possible material breach.

1 (e) Within 10 days of determining whether it is likely that a
2 material breach exists, the city or county shall notify the landowner
3 and the department by certified mail, return receipt requested. This
4 notice shall include the reasons for the determination and a copy
5 of the contract. If either the landowner or the department objects
6 to the preliminary determination of the city or county, the board
7 or council shall schedule a public hearing as provided in
8 subdivision (g).

9 (f) Within 60 days of receiving notice that it is likely a material
10 breach, the landowner or his or her representative may notify the
11 city or the county that the landowner intends to eliminate the
12 conditions that resulted in the material breach within 60 days. If
13 the landowner eliminates the conditions that resulted in the material
14 breach within 60 days, the city or county shall take no further
15 action under this section with respect to the building at issue. If
16 the landowner notifies the city or county of the intention to
17 eliminate the conditions but fails to do so, the city or county shall
18 proceed with the hearing required in subdivision (g).

19 (g) The city or county shall schedule a hearing no more than
20 120 days after the notice is provided to the landowner and the
21 department, as required in subdivision (e). The city or county shall
22 give notice of the public hearing by certified mail, return receipt
23 requested to the landowner and the department at least 30 days
24 prior to the hearing. The city or county shall give notice of the
25 public hearing by first-class mail to every owner of land under
26 contract, any portion of which is situated within one mile of the
27 exterior boundary of the contracted parcel on which the likely
28 material breach exists. The city or county shall also give published
29 notice pursuant to Section 6061. The notice shall include the date,
30 time, and place of the public hearing. Not less than five days before
31 the hearing, the department may request that the city or county
32 provide the department, at the department's expense, a recorded
33 transcript of the hearing not more than 30 days after the hearing.

34 (h) At the public hearing, the city or county shall consider any
35 oral or written testimony and then determine whether a material
36 breach exists. The city or county shall support its determination
37 with findings, made on the record and based on substantial
38 evidence, that the property does or does not meet the conditions
39 specified in subdivision (b).

1 (i) If the city or county determines that a material breach exists,
2 the city or county shall do one of the following:

3 (1) Order the landowner to eliminate the conditions that resulted
4 in the material breach within 60 days.

5 (2) Assess the monetary penalty pursuant to subdivision (j) and
6 terminate the contract on that portion of the contracted parcel that
7 has been made incompatible by the material breach.

8 If the landowner disagrees with the determination, he or she may
9 pursue any other legal remedy that is available.

10 (j) The monetary penalty shall be 25 percent of the unrestricted
11 fair market value of the land rendered incompatible by the breach,
12 plus 25 percent of the value of the incompatible building and any
13 related improvements on the contracted land. The basis for the
14 valuation of the penalty shall be an independent appraisal of the
15 current unrestricted fair market value of the property that is subject
16 to the contract and affected by the incompatible use or uses, and
17 a valuation of any buildings and any related improvements within
18 the area affected by the incompatible use or uses. If the city or
19 county determines that equity would permit a lesser penalty, the
20 city or county, the landowner, and the department may negotiate
21 a reduction in the penalty based on the factors specified in
22 subdivision (k), but a reduction in the penalty may not exceed
23 one-half of the penalty. If negotiations are to be held, the city or
24 county shall provide the department 15 days' notice before the
25 first negotiation. If the department chooses not to be a negotiator
26 or fails to send a negotiator, the city or county and the landowner
27 may negotiate the penalty.

28 (k) In determining the amount of a lesser penalty, the negotiators
29 shall consider:

30 (1) The nature, circumstances, extent, and gravity of the material
31 breach.

32 (2) Whether the landowner's actions were willful, knowing, or
33 negligent with respect to the material breach.

34 (3) The landowner's culpability in contributing to the material
35 breach and whether the actions of prior landowners subject to the
36 contract contributed to the material breach.

37 (4) Whether the actions of the city or county contributed to the
38 material breach.

1 (5) Whether the landowner notified the city or county that the
2 landowner would eliminate the conditions that resulted in the
3 material breach within 30 days, but failed to do so.

4 (6) The willingness of the landowner to rapidly resolve the issue
5 of the material breach.

6 (7) Any other mitigating or aggravating factors that justice may
7 require.

8 (l) If the landowner is ordered to eliminate the conditions that
9 resulted in the material breach pursuant to paragraph (1) of
10 subdivision (i) but the landowner fails to do so within the time
11 specified by the city or county, the city or county may abate the
12 material breach as a public nuisance pursuant to any applicable
13 provisions of law.

14 (m) If the city or county terminates the contract pursuant to
15 paragraph (2) of subdivision (i), the city or county shall record a
16 notice of termination following the procedures of Section 51283.4.

17 (n) The assessment of a monetary penalty pursuant to
18 subdivision (i) shall be secured by a lien payable to the county
19 treasurer of the county within which the property is located, in the
20 amount assessed pursuant to subdivision (j) or (k). Once properly
21 recorded and indexed, the lien shall have the force, effect, and
22 priority of a judgment lien. The lien document shall provide both
23 of the following:

24 (1) The name of the real property owner of record and shall
25 contain either the legal description or the assessor's parcel number
26 of the real property to which the lien attaches.

27 (2) A direct telephone number and address that interested parties
28 may contact to determine the final amount of any applicable
29 assessments and penalties owing on the lien pursuant to this
30 section.

31 (o) If the lien is not paid within 60 days of recording, simple
32 interest shall accrue on the unpaid penalty at the rate of 10 percent
33 per year, and shall continue to accrue until the penalty is paid,
34 prior to all other claims except those with superior status under
35 federal or state law.

36 (p) Upon payment of the lien, the city or county shall record a
37 release of lien and a certificate of contract termination by breach
38 with the county recorder for the land rendered incompatible by the
39 breach.

(q) The city or county may deduct from any funds received pursuant to this chapter the amount of the actual costs of administering this section and shall transmit the balance of the funds by the county treasurer to the Controller for deposit in the Soil Conservation Fund.

(r) (1) The department may carry out the responsibilities of a city or county under this section if any of the following occurs:

(A) The city or county fails to determine whether there is a material breach within 210 days of the discovery of the breach.

(B) The city or county fails to complete the requirements of this section within 180 days of the determination that a material breach exists.

(2) The city or county may request in writing to the department, the department's approval for an extension of time for the city or county to act and the reasons for the extension. Approval may not be unreasonably withheld by the department.

(3) The department shall notify the city or county 30 days prior to its exercise of any responsibility under this subdivision.

(4) This section shall not be construed to limit the authority of the Secretary of the Resources Agency under Section 16146 or 16147.

(s) (1) This section does not apply to any of the following:

(A) A building constructed prior to January 1, 2004, or a building for which a permit was issued by a city or county prior to January 1, 2004.

(B) A building that was not a material breach at the time of construction but became a material breach because of a change in law or ordinance.

(C) A building owned by the state.

(2) Subject to paragraphs (4) and (5), this section does not apply when a board or council cancels a contract pursuant to Article 5 (commencing with Section 51280), or a city terminates a contract pursuant to Section 51243.5, or when a public agency, as defined by subdivision (a) of Section 51291, acquires land subject to contract by, or in lieu of, eminent domain pursuant to Article 6 (commencing with Section 51290) unless either of the following occurs:

(A) The action terminating the contract is rescinded.

1 (B) A court determines that the cancellation or termination was
2 not properly executed pursuant to this chapter, or that the land
3 continues to be subject to the contract.

4 (3) On the motion of any party with standing to bring an action
5 for breach, any court hearing an action challenging the termination
6 of a contract entered into under this chapter shall consolidate any
7 action for breach, including the remedies for material breach
8 available pursuant to this section.

9 (4) Paragraph (2) shall not be applicable for a cancellation or
10 termination occurring after January 1, 2004, unless the affected
11 landowner provides to the administering board or council and to
12 the department, within 30 days after the cancellation or termination,
13 a notarized statement, in a form acceptable to the department,
14 signed under penalty of perjury and filed with the county recorder,
15 acknowledging that the breach provisions of this section may apply
16 if any of the following conditions are met:

17 (A) The action by the local government is rescinded.

18 (B) A court permanently enjoins, voids, or rescinds the
19 cancellation or termination.

20 (C) For any other reason, the land continues to be subject to the
21 contract.

22 (5) Paragraph (2) does not apply for a cancellation or termination
23 occurring before January 1, 2004, unless the landowner provides
24 the statement required in paragraph (4) prior to the approval of a
25 building permit necessary for the construction of a commercial,
26 industrial, or residential building.

27 (t) It is the intent of the Legislature to encourage cities and
28 counties, in consultation with contracting landowners and the
29 department, to review existing Williamson Act enforcement
30 programs and consider any additions or improvements that would
31 make local enforcement more effective, equitable, or widely
32 acceptable to the affected landowners. Cities and counties are also
33 encouraged to include enforcement provisions within the terms of
34 the contracts, with the consent of contracting landowners.

35 (u) The department and the city or county may agree to extend
36 any deadline to act under this section, upon the request of the city
37 and county, and the written approval of the director of the
38 department.

39 (v) In order to promote the reasonable and equitable resolution
40 of a potential material breach, if a potential material breach

1 involves extenuating circumstances, the city or county and the
2 landowner may agree to request that the department meet and
3 confer with them for the purpose of developing a resolution of the
4 potential material breach. If the department agrees to meet and
5 confer with the landowner and city or county, the time requirements
6 specified in this section shall be tolled. The resolution may include
7 remedies authorized by law or not prohibited by law that are agreed
8 to by the landowner, city or county, and department. If the
9 resolution resolves all outstanding issues under this section, the
10 city or county shall terminate all proceedings pursuant to this
11 section upon execution by the landowner, city or county, and
12 department. The agreement executing the resolution shall be
13 recorded in the county in which the affected parcel is located.

14 (w) A city or county shall not cancel a contract pursuant to
15 Article 5 (commencing with Section 51280) to resolve a material
16 breach except pursuant to this section.

17 SEC. 4. Section 51256 of the Government Code is amended
18 to read:

19 51256. Notwithstanding any other provision of this chapter, a
20 city or county, upon petition by a landowner, may enter into an
21 agreement with the landowner to rescind a contract in accordance
22 with the contract cancellation provisions of Section 51282 in order
23 to simultaneously place other land within that city, the county, or
24 the county where the contract is rescinded under an agricultural
25 conservation easement, consistent with the purposes and, except
26 as provided in subdivision (b), the requirements of the California
27 Farmland Conservancy pursuant to Division 10.2 (commencing
28 with Section 10200) of the Public Resources Code, provided that
29 the board or council makes all of the following findings:

30 (a) The proposed agricultural conservation easement is
31 consistent with the criteria set forth in Section 10251 of the Public
32 Resources Code.

33 (b) The proposed agricultural conservation easement is evaluated
34 pursuant to the selection criteria in Section 10252 of the Public
35 Resources Code, and particularly subdivisions (a), (c), (e), (f), and
36 (h), and the board or council makes a finding that the proposed
37 easement will make a beneficial contribution to the conservation
38 of agricultural land in its area.

39 (c) The land proposed to be placed under an agricultural
40 conservation easement is of equal size or larger than the land

1 subject to the contract to be rescinded, and is equally or more
2 suitable for agricultural use than the land subject to the contract
3 to be rescinded. In determining the suitability of the land for
4 agricultural use, the city or county shall consider the soil quality
5 and water availability of the land, adjacent land uses, and any
6 agricultural support infrastructure.

7 (d) The value of the proposed agricultural conservation
8 easement, as determined pursuant to Section 10260 of the Public
9 Resources Code, is equal to or greater than either of the following:

10 (1) Twelve and one-half percent of the cancellation valuation
11 of the land subject to the contract to be rescinded, pursuant to
12 subdivision (a) of Section 51283.

13 (2) Twenty-five percent of the cancellation valuation of the land
14 subject to the contract to be rescinded pursuant to paragraph (3)
15 of subdivision (c) of Section 51297, if the contract was entered
16 into pursuant to Article 7 (commencing with Section 51296).

17 (e) The easement value and the cancellation valuation shall be
18 determined within 90 days before the approval of the city or county
19 of an agreement pursuant to this section.

20 SEC. 5. Section 51257 of the Government Code is amended
21 to read:

22 51257. (a) To facilitate a lot line adjustment, pursuant to
23 subdivision (d) of Section 66412, and notwithstanding any other
24 provision of this chapter, the parties may mutually agree to rescind
25 the contract or contracts and simultaneously enter into a new
26 contract or contracts pursuant to this chapter, provided that the
27 board or council finds all of the following:

28 (1) The new contract or contracts would enforceably restrict the
29 adjusted boundaries of the parcel for an initial term for at least as
30 long as the unexpired term of the rescinded contract or contracts,
31 but for not less than 10 years.

32 (2) There is no net decrease in the amount of the acreage
33 restricted. In cases where two parcels involved in a lot line
34 adjustment are both subject to contracts rescinded pursuant to this
35 section, this finding will be satisfied if the aggregate acreage of
36 the land restricted by the new contracts is at least as great as the
37 aggregate acreage restricted by the rescinded contracts.

38 (3) At least 90 percent of the land under the former contract or
39 contracts remains under the new contract or contracts.

(4) After the lot line adjustment, the parcels of land subject to contract will be large enough to sustain their agricultural use, as defined in Section 51222.

(5) The lot line adjustment would not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to a contract or contracts.

(6) The lot line adjustment is not likely to result in the removal of adjacent land from agricultural use.

(7) The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan.

(b) Nothing in this section shall limit the authority of the board or council to enact additional conditions or restrictions on lot line adjustments.

(c) Only one new contract may be entered into pursuant to this section with respect to a given parcel, prior to January 1, 2004.

(d) In the year 2008, the department's Williamson Act Status Report, prepared pursuant to Section 51207, shall include a review of the performance of this section.

(e) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2010, deletes or extends that date.

SEC. 6. Section 51282 of the Government Code is amended to read:

51282. (a) The landowner may petition the board or council for cancellation of any contract as to all or any part of the subject land. The board or council may grant tentative approval for cancellation of a contract only if it makes one of the following findings:

(1) That the cancellation is consistent with the purposes of this chapter.

(2) That cancellation is in the public interest.

(b) For purposes of paragraph (1) of subdivision (a) cancellation of a contract shall be consistent with the purposes of this chapter only if the board or council makes all of the following findings:

(1) That the cancellation is for land on which a notice of nonrenewal has been served pursuant to Section 51245.

(2) That cancellation is not likely to result in the removal of adjacent lands from agricultural use.

1 (3) That cancellation is for an alternative use which is consistent
2 with the applicable provisions of the city or county general plan.

3 (4) That cancellation will not result in discontinuous patterns
4 of urban development.

5 (5) That there is no proximate noncontracted land which is both
6 available and suitable for the use to which it is proposed the
7 contracted land be put, or, that development of the contracted land
8 would provide more contiguous patterns of urban development
9 than development of proximate noncontracted land.

10 As used in this subdivision “proximate, noncontracted land”
11 means land not restricted by contract pursuant to this chapter,
12 which is sufficiently close to land which is so restricted that it can
13 serve as a practical alternative for the use which is proposed for
14 the restricted land.

15 As used in this subdivision “suitable” for the proposed use means
16 that the salient features of the proposed use can be served by land
17 not restricted by contract pursuant to this chapter. Such
18 nonrestricted land may be a single parcel or may be a combination
19 of contiguous or discontinuous parcels.

20 (c) For purposes of paragraph (2) of subdivision (a) cancellation
21 of a contract shall be in the public interest only if the council or
22 board makes the following findings: (1) that other public concerns
23 substantially outweigh the objectives of this chapter; and (2) that
24 there is no proximate noncontracted land which is both available
25 and suitable for the use to which it is proposed the contracted land
26 be put, or that development of the contracted land would provide
27 more contiguous patterns of urban development than development
28 of proximate noncontracted land.

29 As used in this subdivision “proximate, noncontracted land”
30 means land not restricted by contract pursuant to this chapter,
31 which is sufficiently close to land which is so restricted that it can
32 serve as a practical alternative for the use which is proposed for
33 the restricted land.

34 As used in this subdivision “suitable” for the proposed use means
35 that the salient features of the proposed use can be served by land
36 not restricted by contract pursuant to this chapter. Such
37 nonrestricted land may be a single parcel or may be a combination
38 of contiguous or discontinuous parcels.

39 (d) For purposes of subdivision (a), the uneconomic character
40 of an existing agricultural use shall not by itself be sufficient reason

1 for cancellation of the contract. The uneconomic character of the
2 existing use may be considered only if there is no other reasonable
3 or comparable agricultural use to which the land may be put.

4 (e) The landowner's petition shall be accompanied by a proposal
5 for a specified alternative use of the land. The proposal for the
6 alternative use shall list those governmental agencies known by
7 the landowner to have permit authority related to the proposed
8 alternative use, and the provisions and requirements of Section
9 51283.4 shall be fully applicable thereto. The level of specificity
10 required in a proposal for a specified alternate use shall be
11 determined by the board or council as that necessary to permit
12 them to make the findings required.

13 (f) In approving a cancellation pursuant to this section, the board
14 or council shall not be required to make any findings other than
15 or in addition to those expressly set forth in this section, and, where
16 applicable, in Section 21081 of the Public Resources Code.

17 (g) A board or council shall not accept or approve a petition for
18 cancellation if the land for which the cancellation is sought is
19 currently subject to the process specified in Section 51250, unless
20 the cancellation is a part of the process specified in Section 51250.

21 SEC. 7. Section 51283 of the Government Code is amended
22 to read:

23 51283. (a) Prior to any action by the board or council giving
24 tentative approval to the cancellation of any contract, the county
25 assessor of the county in which the land is located shall determine
26 the current fair market value of the land as though it were free of
27 the contractual restriction. The assessor shall certify to the board
28 or council the cancellation valuation of the land for the purpose
29 of determining the cancellation fee. At the same time, the assessor
30 shall send a notice to the landowner and the Department of
31 Conservation indicating the current fair market value of the land
32 as though it were free of the contractual restriction and advise the
33 parties, that upon their request, the assessor shall provide all
34 information relevant to the valuation, excluding third-party
35 information. If any information is confidential or otherwise
36 protected from release, the department and the landowner shall
37 hold it as confidential and return or destroy any protected
38 information upon termination of all actions relating to valuation
39 or cancellation of the contract on the property. The notice shall

1 also advise the landowner and the department of the opportunity
2 to request formal review from the assessor.

3 (b) Prior to giving tentative approval to the cancellation of any
4 contract, the board or council shall determine and certify to the
5 county auditor the amount of the cancellation fee that the
6 landowner shall pay the county treasurer upon cancellation. That
7 fee shall be an amount equal to 12½ percent of the cancellation
8 valuation of the property.

9 (c) If it finds that it is in the public interest to do so, the board
10 or council may waive any payment or any portion of a payment
11 by the landowner, or may extend the time for making the payment
12 or a portion of the payment contingent upon the future use made
13 of the land and its economic return to the landowner for a period
14 of time not to exceed the unexpired period of the contract, had it
15 not been canceled, if all of the following occur:

16 (1) The cancellation is caused by an involuntary transfer or
17 change in the use which may be made of the land and the land is
18 not immediately suitable, nor will be immediately used, for a
19 purpose which produces a greater economic return to the owner.

20 (2) The board or council has determined that it is in the best
21 interests of the program to conserve agricultural land use that the
22 payment be either deferred or is not required.

23 (3) The waiver or extension of time is approved by the Secretary
24 of the Resources Agency. The secretary shall approve a waiver or
25 extension of time if the secretary finds that the granting of the
26 waiver or extension of time by the board or council is consistent
27 with the policies of this chapter and that the board or council
28 complied with this article. In evaluating a request for a waiver or
29 extension of time, the secretary shall review the findings of the
30 board or council, the evidence in the record of the board or council,
31 and any other evidence the secretary may receive concerning the
32 cancellation, waiver, or extension of time.

33 (d) The first two million five hundred thirty-six thousand dollars
34 (\$2,536,000) of revenue paid to the Controller pursuant to
35 subdivision (e) in the 2004–05 fiscal year, and any other amount
36 as approved in the final Budget Act for each fiscal year thereafter,
37 shall be deposited in the Soil Conservation Fund, which is
38 continued in existence. The money in the fund is available, when
39 appropriated by the Legislature, for the support of all of the
40 following:

1 (1) The cost of the farmlands mapping and monitoring program
2 of the Department of Conservation pursuant to Section 65570.

3 (2) The soil conservation program identified in Section 614 of
4 the Public Resources Code.

5 (3) Program support costs of this chapter as administered by
6 the Department of Conservation.

7 (4) Program support costs incurred by the Department of
8 Conservation in administering the open-space subvention program
9 (Chapter 3 (commencing with Section 16140) of Part 1 of Division
10 4 of Title 2).

11 (5) The costs to the Department of Conservation for
12 administering Section 51250.

13 (e) When cancellation fees required by this section are collected,
14 they shall be transmitted by the county treasurer to the Controller
15 and deposited in the General Fund, except as provided in
16 subdivision (d) of this section and subdivision (b) of Section 51203.
17 The funds collected by the county treasurer with respect to each
18 cancellation of a contract shall be transmitted to the Controller
19 within 30 days of the execution of a certificate of cancellation of
20 contract by the board or council, as specified in subdivision (b) of
21 Section 51283.4.

22 (f) It is the intent of the Legislature that fees paid to cancel a
23 contract do not constitute taxes but are payments that, when made,
24 provide a private benefit that tends to increase the value of the
25 property.

26 SEC. 8. Section 51297 of the Government Code is amended
27 to read:

28 51297. A petition for cancellation of a farmland security zone
29 contract created under this article may be filed only by the
30 landowner with the city or county within which the contracted
31 land is located. The city or county may grant a petition only in
32 accordance with the procedures provided for in Article 5
33 (commencing with Section 51280) and only if all the following
34 requirements are met:

35 (a) The city or county shall make both of the findings specified
36 in paragraphs (1) and (2) of subdivision (a) of Section 51282, based
37 on substantial evidence in the record. Subdivisions (b) to (e),
38 inclusive, of Section 51282 shall apply to the findings made by
39 the city or county.

1 (b) Prior to issuing tentative approval of the cancellation of the
2 contract, the board or council shall determine and certify to the
3 county auditor the amount of the cancellation fee that the
4 landowner will be required to pay the county treasurer upon
5 cancellation of the contract. The cancellation fee shall be in an
6 amount that equals 25 percent of the cancellation valuation of the
7 property.

8 (c) In its resolution tentatively approving cancellation of the
9 contract, the city or county shall find all of the following:

10 (1) That no beneficial public purpose would be served by the
11 continuation of the contract.

12 (2) That the uneconomic nature of the agricultural use is
13 primarily attributable to circumstances beyond the control of the
14 landowner and the local government.

15 (3) That the landowner has paid a cancellation fee equal to 25
16 percent of the cancellation valuation calculated in accordance with
17 subdivision (b).

18 (d) The Director of Conservation approves the cancellation. The
19 director may approve the cancellation after reviewing the record
20 of the tentative cancellation provided by the city or county, only
21 if he or she finds both of the following:

22 (1) That there is substantial evidence in the record supporting
23 the decision.

24 (2) That no beneficial public purpose would be served by the
25 continuation of the contract.

26 (e) A finding that no authorized use may be made of a remnant
27 contract parcel of five acres or less left by public acquisition
28 pursuant to Section 51295, may be substituted for the finding in
29 subdivision (a).